Billing Code: 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor (Secretary) determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2018-001-C.

Petitioner: LCT Energy, LP, 938 Mt. Airy Drive, Suite 200, Johnstown, Pennsylvania 15904.

Mines: Maple Springs Mine, MSHA I.D. No. 36-09973, Cass No. 1 Mine, MSHA I.D. No. 36-09974, Boone Surface Mine, MSHA I.D. No. 36-10067, located in Somerset County, Pennsylvania; and Rustic Ridge Mine, MSHA I.D. No. 36-10089, located in Westmoreland County, Pennsylvania.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature, and the size and complexity of mine plans require that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) Use nonpermissible electronic surveying equipment when equivalent permissible electronic surveying equipment is not available. Nonpermissible equipment

will include portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment will be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2018-002-C.

Petitioner: LCT Energy, LP, 938 Mt. Airy Drive, Suite 200, Johnstown, Pennsylvania 15904.

Mines: Maple Springs Mine, MSHA I.D. No. 36-09973, Cass No. 1 Mine, MSHA I.D. No. 36-09974, Boone Surface Mine, MSHA I.D. No. 36-10067, located in Somerset County, Pennsylvania; and Rustic Ridge Mine, MSHA I.D. No. 36-10089, located in Westmoreland County, Pennsylvania.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature, and the size and complexity of mine plans require that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) Use nonpermissible electronic surveying equipment when equivalent permissible electronic surveying equipment is not available. Nonpermissible equipment will include portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment will be changed out or charged in fresh air out of the return airway.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) Nonpermissible surveying equipment will not be put into service until MSHA has inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2018-003-C.

Petitioner: LCT Energy, LP, 938 Mt. Airy Drive, Suite 200, Johnstown, Pennsylvania 15904.

Mines: Maple Springs Mine, MSHA I.D. No. 36-09973, Cass No. 1 Mine, MSHA I.D. No. 36-09974, Boone Surface Mine, MSHA I.D. No. 36-10067, located in Somerset County, Pennsylvania; and Rustic Ridge Mine, MSHA I.D. No. 36-10089, located in Westmoreland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of longwall faces and pillar workings, including, but not limited to portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers.

The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is

necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature, and the size and complexity of mine plans require that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) Use nonpermissible electronic surveying equipment when equivalent permissible electronic surveying equipment is not available. Nonpermissible equipment will include portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings or longwall faces will be examined by surveying personnel prior to use to ensure the equipment is being maintained in safe operating condition. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and withdrawn more than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment will be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to

the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2018-004-C.

Petitioner: LCT Energy, LP, 938 Mt. Airy Drive, Suite 200, Johnstown, Pennsylvania 15904.

Mines: Maple Springs Mine, MSHA I.D. No. 36-09973, Cass No. 1 Mine, MSHA I.D. No. 36-09974, Boone Surface Mine, MSHA I.D. No. 36-10067, located in Somerset County, Pennsylvania; and Rustic Ridge Mine, MSHA I.D. No. 36-10089, located in Westmoreland County, Pennsylvania.

Regulation Affected: 30 CFR 77.1914(a) (Electrical equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of battery-powered nonpermissible surveying equipment in shaft and slope construction, including, but not limited to portable battery-operated mine transits, total station surveying equipment, distance meters, and laptop computers. The petitioner proposes to use up-to-date, practical, and accurate technology in the preparation of mine maps and ensure the safety of the miners by providing proper and accurate mining directional control in the mine.

The petitioner states that:

(1) Application of the existing standard would result in a diminution of safety to the miners.

(2) Underground mining by its nature, and the size, complexity, and relative closeness to other abandoned mines, gas/oil wells, and other features, requires that accurate and precise measurements be completed in a prompt and efficient manner.

As an alternative to the existing standard, the petitioner proposes the following:

(a) To examine all nonpermissible electronic surveying equipment prior to use in or inby the last open crosscut to ensure the equipment is being maintained in a safe operating condition, and have a qualified person as defined in 30 CFR 75.153, examine the equipment at intervals not to exceed 7 days. The examination results will be recorded in the weekly examination electrical equipment book. These examinations will include:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion and damage.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(b) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut or in the return.

(c) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is

detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and withdrawn out of the return.

(d) Nonpermissible surveying equipment will not be used in areas where float coal dust is in suspension.

(e) Batteries contained in the surveying equipment will be changed out or charged in fresh air and not in the return.

(f) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment.

(g) The nonpermissible surveying equipment will not be put into service until MSHA has inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

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Sheila McConnell,

Director,

Office of Standards, Regulations, and Variances.

[FR Doc. 2018-04998 Filed: 3/12/2018 8:45 am; Publication Date: 3/13/2018]